

GENERAL ORDERS, }
No. 174. }

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
Washington, October 30, 1862.

I. By a Military Commission which convened in Sante Fé, New Mexico, on the 14th day of July, 1862, pursuant to "Special Orders," No. 119, dated Headquarters Department of New Mexico, Sante Fé, N. M., July 8, 1862, and of which Major HENRY D. WALLEN, 7th Infantry, was President, was arraigned and tried—

José Maria Rivas.

CHARGE.—"*Lurking or acting as a Spy.*"

Specification—"In this; that the said *José Maria Rivas* did, during the winter of 1861—'62 and the spring of 1862, act as a Spy against the Federal troops in New Mexico, first for Colonel Baylor, then for General Sibley, and, until caught, as a Spy and Guide for Captain Coopwood, all of the Confederate forces; and the said *Rivas* did, during the greater part of the time above mentioned, continue to act, as a Spy and Guide, adversely to the Federal Government, to which he owed allegiance."

To which the prisoner pleaded as follows:

To the *Specification*, "Not Guilty."

To the CHARGE, "Not Guilty."

FINDINGS OF THE COMMISSION.

The Commission, after mature deliberation upon the testimony adduced, found the prisoner as follows:

Of so much of the *Specification* as sets forth that he acted as a Spy for the Confederate forces and against the Government of the United States, in the winter of 1861—'62, "Guilty."

And of the CHARGE, "Guilty."

SENTENCE.

And the Commission does therefore sentence him, *José Maria Rivas*, "To be shot to death by a detachment of New Mexican Volunteers, at such time and place as the Department Commander may designate; two-thirds of the members concurring therein."

II..In accordance with the 5th section of the act approved July 17, 1862, the proceedings of the Military Commission in the case of *José Maria Rivas*, have been submitted to the President of the United States. The following is the order in the case:

OCTOBER 25, 1862.

Waiving the question of jurisdiction in the case, the sentence is not approved, because the accused is not shown to have been within our lines in disguise, or by false pretense, except by hearsay testimony; and because in his admission that he was a "Spy," he may not have understood the technical term, and may have meant no more than that he was a scout of the enemy. He clearly is a prisoner of war.

A. LINCOLN.

BY ORDER OF THE SECRETARY OF WAR:

L. THOMAS,
Adjutant General.

OFFICIAL:

Assistant Adjutant General.